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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA

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IN RE: JOHN DAVIS TRUCKING
COMPANY, INC.,

Case No.: BK 14-51643-btb
(Chapter 11)

**OFFICIAL COMMITTEE OF
UNSECURED CREDITORS' PROPOSED
SECOND AMENDED PLAN OF
ORDERLY LIQUIDATION**

Debtor.

Hrg Date: February 10, 2016

Hrg Time: 2:00 p.m.

THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS ("Committee")
in the Chapter 11 case of JOHN DAVIS TRUCKING COMPANY, INC, a Nevada
corporation ("Debtor"), hereby proposes the following OFFICIAL COMMITTEE OF
UNSECURED CREDITORS' PROPOSED SECOND AMENDED PLAN OF ORDERLY
LIQUIDATION (the "Committee's Plan"), by and through its attorney undersigned and named
herein, and requests confirmation thereof pursuant to the provisions of 11 U.S.C. § 1129(a) and
(b).

I. INTRODUCTION

This COMMITTEE'S PLAN is proposed by the Plan Proponent for the resolution of the
Debtor's outstanding creditor obligations. This COMMITTEE'S PLAN is offered pursuant to

1 Chapter 11 of Title 11 of the United States Code, and should be read in conjunction with the
2 proposed OFFICIAL COMMITTEE OF UNSECURED CREDITORS' PROPOSED FIRST
3 AMENDED DISCLOSURE STATEMENT, as amended ("COMMITTEE'S DISCLOSURE
4 STATEMENT") concerning this Debtor that will be approved by the United States Bankruptcy
5 Court.

6 Along with this proposed Plan, creditors will receive a Disclosure Statement which has
7 been approved by the United States Bankruptcy Court. The Court has determined that the
8 Disclosure Statement is adequate to enable creditors to make an informed judgment on whether
9 to accept or reject the Committee's Plan. The Disclosure Statement sets forth the Debtor's
10 background information, an analysis of the Debtor's financial position and a summary of this
11 Committee's Plan. The Debtor has not authorized any statement or representation, such as the
12 value of the Debtor's property or the amount of Debtor's creditors' claims, that are contained in
13 the Court approved Committee's Disclosure Statement.

14 Information as to the procedures relating to approval, confirmation and consummation of
15 the Plan may be obtained from STEPHEN R. HARRIS, ESQ. of the law firm HARRIS LAW
16 PRACTICE LLC, attorneys for the Plan Proponent, upon written request.

17 THE PROVISIONS OF THE CONFIRMED PLAN WILL LEGALLY BIND THE
18 DEBTOR AND ITS CREDITORS, REGARDLESS OF WHETHER THEY HAVE FILED
19 CLAIMS OR HAVE ACCEPTED THE PLAN. Creditors should thoroughly review both the
20 Plan and the Disclosure Statement before determining whether to accept or reject the proposed
21 Plan.

22 Debtor JOHN DAVIS TRUCKING COMPANY, INC., a Nevada corporation
23 (hereinafter "Debtor" or "JDT"), filed its petition for relief under Chapter 11 of the Bankruptcy
24 Code on **September 29, 2014**. This Committee's Plan is a proposal to the Debtor's creditors to
25 resolve the debts owed on the date of filing the petition and/or on the Confirmation Date.

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II. DEFINITIONS

SCOPE OF DEFINITIONS

For the purposes of this Committee's Plan, all capitalized terms and otherwise defined terms shall have the meanings assigned to them in this Article II. Whenever the context requires, such terms shall include the plural number as well as the singular and the female and/or masculine gender as well as the neuter.

1. **"ADMINISTRATIVE CLAIM."** This term shall refer to and mean every claim that is entitled to allowance under Section 503(b) of the Bankruptcy Code or otherwise entitled to priority pursuant to Section 507(a)(1) of the Bankruptcy Code, arising prior to the Effective Date, including, without limitation: **(a)** any actual, necessary expense preserving the Estate, including, without limitation, expenses necessary or appropriate to carry out, facilitate, or effectuate this Plan; **(b)** any amount required to be paid under Section 365(b) of the Bankruptcy Code in connection with the curing of defaults under executory contracts or unexpired leases; and **(c)** all allowances, including professional fees and costs, approved by the Bankruptcy Court for the Receiver and his professionals, and the Debtor's professionals and members of and professionals employed by the Unsecured Creditors' Committee, if any.

2. **"ALLOWED ADMINISTRATIVE CLAIM"** shall mean an Administrative Claim: **(a)** as to which no objection has been filed or, if an objection has been filed, such objection has been resolved by the allowance of such Administrative Claim by a Final Order; **(b)** which requires payment in the ordinary course of the business of the Debtor and as to which there is no order of the Bankruptcy Court in effect which prohibits any such payment; or **(c)** which requires payment pursuant to a Final Order.

3. **"ALLOWED CLAIM"** or **"ALLOWED INTEREST"** shall mean claims against or interest in the Debtor to the extent that--

(a) Proof of claim or interest was--

(i) timely filed;

(ii) deemed filed, if such claim or interest appears in the schedules filed herein, unless such claim or interest is scheduled as disputed, contingent, or unliquidated; or

(iii) late filed—

(I) with leave of the Bankruptcy Court; or

(II) without objection by the Committee or the Liquidating Trust within a time fixed by the Bankruptcy Court; and

(b) (i) the Debtor-in-Possession does not file an objection within a time fixed by the Bankruptcy Court; or

(ii) the claim or interest is allowed by a Final Order; or

(iii) the claim or interest is allowed under this PLAN.

4. "ALLOWED PRIORITY CLAIM" shall mean a Priority Claim which is an Allowed Claim.

5. "ALLOWED SECURED CLAIM" shall mean an Allowed Claim secured by a lien, security interest or other charge against or interest in property in which the Debtor has an interest, or which is subject to setoff under Section 553 of the Code, to the extent of the value (determined in accordance with Section 506(a) of the Code) of the interest of the holder of such Allowed Claim in the Debtor's interest in such property or to the extent of the amount subject to such set-off, as the case may be.

6. "ALLOWED SUBORDINATED CLAIM" shall mean an Allowed Claim arising from any Indebtedness evidenced by or related to the claim of a Subordinated Creditor.

7. "DEFINITION OF THE BALLOT" shall mean the Ballot(s) for accepting or rejecting this Plan in a form(s) approved by the Bankruptcy Court.

8. "BANKRUPTCY CODE" as used herein refers to Title I of Public Law No. 95-598, as codified in Title 11 of the United States Code, and all amendments thereto.

9. "BANKRUPTCY COURT" (or "COURT") shall mean the United States Bankruptcy Court, for the District of Nevada (Reno, Nevada), in which the Debtor's Chapter 11

1 case is pending, such other court as has jurisdiction in its Chapter 11 case, and any court having
2 competent jurisdiction to hear appeals or certiorari proceedings therefrom.

3 10. "BANKRUPTCY RULES" shall mean the Federal Rules of Bankruptcy
4 Procedure, promulgated under 28 U.S.C. § 2075, including any amendments thereto, which are
5 in effect before and as of the Confirmation Date, and thereafter during the Liquidation
6 proceeding for the case, to the extent that they are consistent with vested rights under this Plan
7 and the Confirmation Order.

8 11. "BUSINESS DAY" shall mean any day except Saturday, Sunday, or a day on
9 which commercial banks in Washoe County, Nevada, are authorized or required by law to close.

10 12. "CAUSES OF ACTION" shall mean all actions, causes of action, Litigation
11 Claims, Claims, liabilities, obligations, rights, suits, debts, damages, judgments, remedies,
12 demands, setoffs, defenses, crossclaims, counterclaims, third-party claims, indemnity claims,
13 contribution claims or any other claims disputed or undisputed, suspected or unsuspected,
14 foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, in
15 law, equity or otherwise, based in whole or in part upon any act or omission or other event
16 occurring prior to the Petition Date or during the course of the Chapter 11 Case, up to and
17 through the Confirmation Date.

18 13. "CLAIM" shall mean: (a) any right to payment from the Debtor or its Estate,
19 including an Administrative Claim, whether or not such right is reduced to judgment, or is
20 liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal,
21 equitable, secured or unsecured; and (b) any right to an equitable remedy for breach of
22 performance of such breach gives rise to a right to payment from the Debtor or its Estate,
23 including an Administrative Claim, whether or not such right to an equitable remedy is reduced
24 to judgment, or is fixed, contingent, matured, unmatured, disputed, secured or unsecured.

25 14. "CLAIMANT" shall mean the holder of an Allowed Claim or an Allowed
26 Administrative Claim.

27 15. "CLASS" shall mean any class into which Allowed Claims or Allowed Interests
28 are classified pursuant to Article IV.

1 16. "COMMENCEMENT DATE" (or "PETITION DATE") shall mean the date the
2 Debtor filed its Petition for Relief [September 29, 2014], which date shall be utilized to
3 determine the cessation of interest on certain claims and the date of commencement of the rights
4 of certain creditors to make claim for administrative expenses and allowances, among other
5 rights that are determined by relation to said date.

6 17. "CONFIRMATION" shall mean the entry of the Confirmation Order by the
7 United States Bankruptcy Court.

8 18. "CONFIRMATION DATE" shall mean the date on which the Confirmation
9 Order is entered on the Bankruptcy Court's docket.

10 19. "CONFIRMATION ORDER" shall mean the Order of the Bankruptcy Court
11 confirming this Plan pursuant to Section 1129 of the Bankruptcy Code and approving the
12 transactions contemplated herein, which shall be in form and substance acceptable to the
13 proponents.

14 20. "CONTINGENT CLAIM" shall mean a Claim which is contingent, unmatured or
15 unliquidated on or immediately before the Confirmation Date.

16 21. "CREDITOR" shall mean any entity that has a claim against the Debtor, whether
17 or not such Claim is an Allowed Claim, which Claim arose to or before the order for relief
18 concerning the Debtor, including any claim that may arise under 11 U.S.C. Sections 502(f),
19 502(g), 502(h) and 502(i).

20 22. "DEBTOR" shall mean JOHN DAVIS TRUCKING COMPANY, INC., a
21 Nevada corporation, Debtor and Debtor-in-Possession herein.

22 23. "DEBTOR'S ASSETS" shall mean all assets and property of every kind, nature
23 and description in which the Debtor or its Estates have any right, title or interest, including but
24 not limited to: real property, personal property, including but not limited to bank deposits,
25 instruments, credit instruments, certificates of deposit and drafts; all executory contracts which
26 are not and have not been rejected; insurance proceeds; all choses in action; and all claims,
27 demands, causes of action, damages and obligations of any nature whatsoever, known or
28 unknown in law or in equity, including, without limitation, claims or causes of action arising

1 under the Bankruptcy Code (including, without limitation, Sections 362, 510, 544, 545, 547,
2 548, 549, 550 and 553 of the Bankruptcy Code), or under any federal or state statute or
3 regulation.

4 24. "DEBTOR'S PROFESSIONALS" shall mean JEFFREY L. HARTMAN, ESQ.,
5 of the law firm of HARTMAN & HARTMAN, as Debtor's general bankruptcy counsel; and all
6 other professionals retained by the Debtor with approval of the Bankruptcy Court, in accordance
7 with Section 327 of the Bankruptcy Code.

8 25. "DISCLOSURE STATEMENT" means the written OFFICIAL COMMITTEE
9 OF UNSECURED CREDITORS' PROPOSED FIRST AMENDED DISCLOSURE
10 STATEMENT, as amended, with respect to this Plan which is approved by the Bankruptcy
11 Court under Section 1125 of the Bankruptcy Code.

12 26. "DISPUTED CLAIM" or "DISPUTED EQUITY INTEREST" shall mean a
13 Claim or Equity Interest or any portion thereof which is: (i) subject to timely objection
14 interposed by the Committee or Liquidating Trust, if on the Confirmation Date such objection
15 remains unresolved; or (ii) a Claim that is listed by a Debtor as disputed, unliquidated or
16 contingent in the Schedules; provided, however, that the Bankruptcy Court may estimate a
17 Disputed Claim for purposes of allowance pursuant to Section 502(c) of the Bankruptcy Code.
18 The term "Disputed," when used to modify a reference in this Plan to any Claim or Class of
19 Claims or Equity Interest, shall mean a Claim or Equity Interest (or any Claim or Equity Interest
20 in such Class) that is a Disputed Claim or Disputed Equity Interest. In the event there is a
21 dispute as to classification or priority of a Claim or Equity Interest, it shall be considered a
22 Disputed Claim or Disputed Equity Interest in its entirety. Until such time as a Contingent
23 Claim becomes fixed and absolute, such Claim shall be treated as a Disputed Claim and not an
24 Allowed Claim for purposes related to allocations and distributions under this Plan.

25 27. "DISTRIBUTION" shall mean any distribution by the Debtor or Liquidating
26 Trustee to the Holders of Allowed Claims.

27 28. "EFFECTIVE DATE of the PLAN" shall mean the first Business Day which is at
28 least thirty (30) calendar days after all of the following have occurred (so long as they remain in

effect): (a) this Plan has been confirmed pursuant to the Confirmation Order and the Confirmation Order remains in full force and effect without material modification thereof; (b) there is not in effect any stay, injunction or restraining order or any other order of any kind which has been issued by a Court of competent jurisdiction or other governmental entity staying, restricting or prohibiting the effectuation of this Plan; and (c) there is not in effect any statute, rule, regulation or order enacted, promulgated or entered which is applicable to the effectuation of this Plan of which results in the consequences referred to in subsection (b) immediately above.

29. "EQUITY HOLDINGS" shall mean the common stock in the Debtor issued to Mr. John W. Davis and Mr. Shane Davis, representing 100% equity ownership of the Debtor.

30. "ESTATE" shall mean the Estate created in this Case pursuant to Section 541 of the Bankruptcy Code. The Estate shall remain in existence until the Chapter 11 Case is closed by Order of this Court and a Final Decree is issued at the request of the Liquidating Trust/Trustee.

31. "EXPIRATION DATE" shall mean the last date determined by the Bankruptcy Court for the casting of Ballots, which date shall be acceptable to the proponents.

32. "FEDERAL COURT ACTION" shall mean the litigation between NATIONAL RAILROAD PASSENGER CORPORATION, UNION PACIFIC RAILROAD and the Debtor in the United States District Court, as Case Number CV-00461-HDM-VPC, and any appeals or related actions arising therefrom.

33. "FINAL ORDER" shall mean a final order, judgment or other decree of the Bankruptcy Court or other Court of competent jurisdiction which has not been vacated, reversed, saved, modified or amended (a) as to which (i) the time to appeal or seek review or rehearing has expired and as to which no appeal, petition for certiorari, request for review or rehearing is pending, or (ii) if appeal, review, rehearing or certiorari of the order has been sought, the order has been affirmed or the request for review, rehearing or certiorari has been denied, the time to seek a further appeal, review, rehearing or certiorari has expired, and (b) as a result of which such orders shall become final and not appealable in accordance with applicable

1 law.

2 34. "HOLDER" shall mean an entity or Person holding an Equity Interest or Claim.

3 35. "LIEN" shall mean a charge or encumbrance against or interest in property of the
4 Debtor or the Estate to secure the payment of a debt or performance of an obligation, and
5 includes any right of setoff under Section 553 of the Bankruptcy Code.

6 36. "LIQUIDATED DEBTOR" shall mean JOHN DAVIS TRUCKING
7 COMPANY, INC., a Nevada corporation, on and after the Effective Date of the Plan, as
8 controlled by the Liquidating Trust.

9 37. "LIQUIDATING TRUST" shall mean that Trust established pursuant to a written
10 agreement to be drafted and presented to the Court subsequent to the hearing on Section 1125
11 approval of the disclosure statement by the attorney for the Official Unsecured Creditors'
12 Committee, which Liquidating Trust shall govern and control the collection, marketing and sale
13 of the Debtor's assets, in addition to owning all of the Debtor's assets. The Liquidating Trust
14 and/or Liquidating Trustee are representatives of the Estate pursuant to 11 U.S.C. §
15 1123(b)(3)(B). Further, the Liquidating Trust/Liquidating Trustee are deemed a "trustee" for
16 purposes of 11 U.S.C. §§ 108, 1106, 1107 and 1108, and Subchapter III of Chapter 5 of the
17 United States Bankruptcy Code.

18 38. "LIQUIDATING TRUSTEE" shall mean the trustee appointed by the
19 Liquidating Trust to own and administer the assets of the Estate of JOHN DAVIS TRUCKING
20 COMPANY, INC. The first Liquidating Trustee shall be elected by the Official Committee of
21 Unsecured Creditors prior to the Effective Date of this Plan.

22 39. "LITIGATION CLAIMS" shall mean all rights, claims, torts, liens, liabilities,
23 obligations, actions, causes of action, avoidance actions, derivative actions, proceedings, debts,
24 contracts, judgments, damages and demands whatsoever in law or in equity, whether known or
25 unknown, contingent or otherwise, that the Debtor or its Estate may have against any Person.
26 Failure to list Litigation Claims in this Plan shall not constitute a waiver or release by the
27 Debtor or Reorganized Debtor of such Litigation Claims.

28 40. "PERSON" includes individual, partnership, corporation, association, joint stock

1 company, joint venture, estate, trust, unincorporated organization, any governmental unit or
2 political subdivision thereof, or other entity, and all of the respective heirs, personal
3 representatives, successors and assigns.

4 41. "PETITION DATE" shall mean September 29, 2014, the date on which a
5 Petition for Relief under Chapter 11 of the Bankruptcy Code was filed by the Debtor
6 commencing this Chapter 11 case.

7 42. "PLAN" means this OFFICIAL COMMITTEE OF UNSECURED
8 CREDITORS' PROPOSED SECOND AMENDED PLAN OF ORDERLY LIQUIDATION, in
9 the form filed by the proponent and any amendments or modifications thereof or supplements
10 thereto filed by the proponent and permitted by Article X hereof or the Bankruptcy Court .

11 43. "PRIORITY CLAIM" shall mean a claim entitled to priority under Section
12 507(a)(2)-(8) of the Bankruptcy Code.

13 44. "PROPONENT" shall mean the Official Committee of Unsecured Creditors
14 acting as the Proponent of this Plan.

15 45. "PRO RATA SHARE" shall mean the proportion that an Allowed Claim in a
16 particular class bears to the aggregate amount of all Allowed Claims in Class 1, Classes 2A
17 through 200 and Class 3.

18 46. "PURCHASER" shall mean the transferee of a voluntary transfer.

19 47. "RECORD DATE" shall mean, for purposes of voting, the date of entry by the
20 Bankruptcy Court of the Order Approving the Disclosure Statement and, for purposes of
21 distribution, the Confirmation Date.

22 48. "REORGANIZATION CASE" shall mean the Debtor's case under Chapter 11
23 of the Bankruptcy Code, which is currently pending before the Bankruptcy Court as Case No.
24 14-51643-btb.

25 49. "SCHEDULES" shall mean the schedules of assets and liabilities and any
26 amendments thereto filed by Debtor, the Committee, or the Liquidating Trust with the
27 Bankruptcy Court in accordance with Section 521(1) of the Bankruptcy Code.

50. "SECURED CLAIM" shall mean the claims of note holders and, for purposes of this Plan, any other claim secured by a lien which is valid, perfected, enforceable and not avoidable. If the value of the creditors' interest and the Estate's interest in the property securing a claim is not sufficient to satisfy such claim, then in accordance with Section 506 of the Bankruptcy Code and subject to Section 1111(b) of the Bankruptcy Code, such claim shall be deemed to be an unsecured claim under this Plan to the extent of any insufficiency in the value of the creditors' interest.

51. "STATE COURT CLAIMS" or "STATE COURT ACTION" shall mean the litigation between the Class 1/ Class 2A through Class 200 and the Debtor in the consolidated case pending in the Second Judicial District Court, Washoe County, Nevada as Case No. CV11-01969, and the claims of any persons asserting damages against the Debtor and UPRR/Amtrak arising out of the truck/train collision occurring on June 24, 2011.

52. "UNSECURED CLAIM" shall mean any claim which is not a Secured Claim, Priority Claim, Administrative Claim, or an unclassified claim or the kind described in Section 507(a)(7) of the Bankruptcy Code.

53. "UNSECURED CREDITORS' COMMITTEE" means the Unsecured Creditors' Committee appointed by the United States Trustee in this reorganization case, as modified by the addition or removal of members from time to time.

A term used in this PLAN that is not defined in this PLAN but that is used in the Bankruptcy Code has the meaning assigned to the term

III. ADMINISTRATIVE AND UNCLASSIFIED CLAIMS

ADMINISTRATIVE CLAIMS

Pursuant to Section 1123(a)(1) of the Bankruptcy Code, the Claims against the Debtor set forth in this Section III are not classified within any Classes. The Holders of such Claims are not entitled to vote on this Plan. The treatment of the Claims set forth below is consistent with the requirements of Section 1129(a)(9)(A) of the Bankruptcy Code.

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1 **A. Treatment of Administrative Claims.**

2 **1. Generally.**

3 Each Holder of an Allowed Administrative Claim shall be paid in full and final
4 satisfaction of such Claim by the Debtor, or after the Effective Date, the Liquidating Trustee (or
5 otherwise satisfied in accordance with its terms), upon the latest of: (i) the Effective Date or as
6 soon thereafter as practicable; (ii) such date as may be fixed by the Bankruptcy Court; (iii) the
7 date such Claim becomes due by its terms; or (iv) such date as is agreed to by the Holder of
8 such Claim and the Debtor or Liquidating Trustee.

9 **2. Requests for Payment.**

10 All requests for payment of Administrative Claims against the Debtor and all final
11 applications for allowance and disbursement of Professional Fees must be filed by the
12 Administrative Claim Bar Date or the Holders thereof shall be forever barred from asserting
13 such Administrative Claims against the Debtor and the Reorganized Debtor. All Professional
14 Fee applications must be in compliance with all of the terms and provisions of any applicable
15 order of the Bankruptcy Court, including the Confirmation Order, and all other orders governing
16 payment of Professional Fees, unless otherwise ordered by the Bankruptcy Court. Prior to and
17 after the Effective Date, all professionals shall continue to be required to file fee applications
18 with the Bankruptcy Court, including the Kirklin Law Firm, and the Liquidating Trustee may
19 only pay professionals if the payment request is accompanied by a Court Order authorizing
20 payment(s).

21 All allowed costs and expenses of administration in this case, including any actual and
22 necessary expenses of preserving or liquidating the assets of the Debtor's estate, all allowances,
23 including professional fees and costs approved by the Court, and any other costs and expenses
24 entitled to priority pursuant to 11 U.S.C. § 507(a)(1) of the Bankruptcy Code and 28 U.S.C.
25 § 1930 shall be paid as Allowed Administrative Claims as set forth in this Section III. The
26 potential holders of these Administrative Claims include the attorneys and accountants for the
27 Debtor (to the extent approved as attorneys and accountants for the Debtor pursuant to a Final
28 Order of the Court), the attorneys and accountants for the Unsecured Creditors' Committee (to

the extent approved as attorneys for the Debtor pursuant to a Final Order of the Court), unpaid post-petition accounts payable (if any), and all fees to be paid to the Office of the United States Trustee. The estimated Administrative Expenses for the Debtor's reorganization proceeding are approximately \$250,000.00 to \$550,000.00, and consist of:

\$0.00	Quarterly Trustee's fees that are owed to the U.S. Trustee's Office for the applicable quarters of 2014, 2015 and 2016 prior to plan confirmation [payment is anticipated to be made when due];
TBD	Professional fees for the Debtor's general bankruptcy attorney, Jeffrey L. Hartman, Esq., of Hartman & Hartman, calculated as of the Confirmation Date (after deduction of an advance retainer of \$20,000.00, not including the filing fee);
TBD	Professional fees for the Debtor's accountants Ripley Doorn & Company (Application Approved,), calculated as of the Confirmation Date;
TBD	Professional fees for the Debtor's Special Litigation Counsel Kirklin Thompson & Pope (Application Approved), calculated as of the Confirmation Date.
\$100,000.00 to \$250,000.00	Estimated professional fees for the counsel for the Unsecured Creditors' Committee, STEPHEN R. HARRIS, ESQ. of HARRIS LAW PRACTICE LLC, calculated as of the Confirmation Date;
\$100,000.00 to \$150,000.00	Estimated professional fees and costs for the accountant for the Unsecured Creditors Committee, James S. Proctor, CPA, of Meridian Advantage, calculated as of the Confirmation Date;
\$50,000.00 to \$150,000.00	Estimated professional fees and costs for the special counsel for the Unsecured Creditors' Committee, Scott A. Glogovac, Esq. of Glogovac & Pinter (Application Approved), calculated as of the Confirmation Date;
\$0.00	Post-petition accounts payable with [all post-petition administrative expenses are expected to be paid in full in the normal course of business prior to confirmation].

In the event that the Allowed Administrative Expenses exceed the amounts designated, the remaining amount of unpaid allowed administrative expenses shall be paid from the proceeds from the liquidation of Available Assets as more fully described in ARTICLE VIII below. Professional fees, both legal and accounting, shall continue to accrue up through and subsequent to the Confirmation Date, with final amounts owing subject to Court approval. After the Confirmation Date, the Liquidating Trustee may or may not continue to employ the Debtor's

professionals.

B. TREATMENT OF UNCLASSIFIED PRIORITY TAX CLAIMS:

1. The Debtor's priority tax claims are as follows:

Name	Scheduled Amount	Proof of Claim Amount	Allowed Priority Amount
Nevada Department of Motor Vehicles	\$0.00	\$19,749.75	\$4,666.50

No Federal income taxes or State of Nevada tax obligations have been listed on the Debtor's schedules of assets and liabilities. The Internal Revenue Service has not filed a proof of claim to designate the priority and non-priority portions of its claim, or to establish the pre-petition interest and penalties that have been assessed. In the event priority tax claims are determined to be owed, pursuant to the Plan, the treatment and disposition of the unclassified priority tax claims, if any, will be as follows: Any claim discrepancy will be resolved by the claim objection process, with the stipulated amount and/or Court decreed amount owing used to calculate that particular creditors' allowed claim being paid by the Liquidating Trust. All unclassified priority tax creditors, if any, shall be paid 100% of their allowed claim amount, with statutory interest thereon, in five (5) annual installments, with the first installment due twelve (12) months after the Effective Date of the Plan, or paid earlier at the option of the Liquidating Trustee. In the event the Liquidating Trust fails to make the payments as set forth hereinabove, the allowed priority tax creditors, if any, shall have the right to proceed with any administrative remedies available to them fifteen (15) days after written notice of default has been given to the Liquidating Trust, to the Debtor and its attorney, JEFFREY L. HARTMAN, ESQ.

IV. CLASSIFICATION OF CLAIMS AND INTERESTS

A. In General. Pursuant to this Plan and in accordance with Sections 1122 and 1123(a)(1) of the Bankruptcy Code, all Claims of Creditors and the Holders of Equity Interests (except Administrative Claims and Priority Tax Claims) are placed in the Classes described below. A Claim or Equity Interest is classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and is classified in other

Classes only to the extent that any remainder of the Claim or Equity Interest qualifies within the description of such other Classes. A Claim or Equity Interest is also classified in a particular Class only to the extent that such Claim or Equity Interest is an Allowed Claim or Allowed Equity Interest in that Class and has not been paid, released or otherwise satisfied prior to the Effective Date. With respect to Classes of Claims described as Unimpaired under the Plan, except as otherwise provided under the Plan, nothing shall affect the rights and legal and equitable defenses of the Debtor and the Reorganized Debtor/Liquidated Debtor regarding such Claims classified as Unimpaired under this Plan, including but not limited to all rights in respect of legal and equitable defenses to setoff or recoupment against such Claims.

B. Specifics on Claims and Interests

1. **CLASS 1: JUDGMENT CREDITOR CLAIMS [AMTRAK AND UNION PACIFIC RAILROAD]:** This Class consists of the judgment claim in favor of NATIONAL RAILROAD PASSENGER CORPORATION (“Amtrak”) currently in the amount of \$4,552,459.44 (POC 36 - \$32,000,000.00 and POC 35 - \$5,308,760.15 both filed on July 2, 2015) , and the judgment claim in favor of UNION PACIFIC RAILROAD (“UPPR”) currently in the amount of \$210,777.04 (POC 5- \$210,777.04 filed on January 23, 2015), both as awarded by the United States District Court in Case Number CV-00461-HDM-VPC by entry of the JUDGMENT IN A CIVIL CASE filed on August 29, 2014, with the final claim amounts subject to any post-trial motions, appeals or related actions arising therefrom, and any filed proofs of claim to be amended accordingly. By reason of the Debtor’s appeal of the judgment claims in the Federal Court Action, the Class 1 claims are deemed disputed by the Debtor.

2. **CLASS 2A: PERSONAL INJURY CLAIM [ALEXANDRA CURTIS]:** This Class consists of the pending State Court claim for damages resulting from a truck/train collision occurring on June 24, 2011 (POC 26 - \$1,000,000.00 filed on June 24, 2015). By reason of the Debtor’s denial of the claim for damages in the State Court Action, the Class 2A claim is deemed disputed by the Debtor.

3. **CLASS 2B: PERSONAL INJURY CLAIM [ANGELICA LONGORIA]:** This Class consists of the pending State Court claim for damages resulting from a truck/train

1 collision occurring on June 24, 2011 (No Proof of Claim has been timely filed by this claimant,
 2 and the Debtor disputed same in its schedules. The Committee has not yet voted to oppose or
 3 not oppose any Court request to allow a late filed proof of claim, although in light of previous
 4 agreements, an Order approving a late filed proof of claim as timely will likely be entered. By
 5 reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2B
 6 claim is deemed disputed by the Debtor.

7 **4. CLASS 2C: PERSONAL INJURY CLAIM [ANTONIA CERDA]:** This
 8 Class consists of the pending State Court claim for damages resulting from a truck/train
 9 collision occurring on June 24, 2011. (Pursuant to the ORDER APPROVING STIPULATION
 10 FOR ALLOWANCE OF PROOFS OF CLAIM AS TIMELY FILED [Docket No. 239] Proof of
 11 Claim 45 has been deemed as timely filed by this claimant.)). By reason of the Debtor's denial
 12 of the claim for damages in the State Court Action, the Class 2C claim is deemed disputed by
 13 the Debtor.

14 **5. CLASS 2D: PERSONAL INJURY CLAIM [BLAINE BENNETT]:** This
 15 Class consists of the pending State Court claim for damages resulting from a truck/train
 16 collision occurring on June 24, 2011 (POC 3 - \$1,000,000.00 filed January 23, 2015). By
 17 reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2D
 18 claim is deemed disputed by the Debtor.

19 **6. CLASS 2E: PERSONAL INJURY CLAIM [CHERRY WILLIAMS]:** This
 20 Class consists of the pending State Court claim for damages resulting from a truck/train
 21 collision occurring on June 24, 2011 (POC 34 - \$1,000,000.00 filed on July 1, 2015). By reason
 22 of the Debtor's denial of the claim for damages in the State Court Action, the Class 2E claim is
 23 deemed disputed by the Debtor.

24 **7. CLASS 2F: PERSONAL INJURY CLAIM [CHRISTINE SWEJKOSKI]:**
 25 This Class consists of the pending State Court claim for damages resulting from a truck/train
 26 collision occurring on June 24, 2011 (Pursuant to the ORDER GRANTING MOTION TO
 27 FIND EXCUSABLE NEGLIGENCE [Docket No. 219] Proof of Claim 41 has been deemed as
 28 timely filed by this claimant.)). By reason of the Debtor's denial of the claim for damages in

1 the State Court Action, the Class 2F claim is deemed disputed by the Debtor.

2 **8. CLASS 2G: PERSONAL INJURY CLAIM [CHRISTOPHER LEE]:** This
 3 Class consists of the pending State Court claim for damages resulting from a truck/train
 4 collision occurring on June 24, 2011 (POC 10 - \$5,000,001.00 filed on June 19, 2015). By
 5 reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2G
 6 claim is deemed disputed by the Debtor.

7 **9. CLASS 2H: PERSONAL INJURY CLAIM [DAE KEUN PARK]:** This
 8 Class consists of the pending State Court claim for damages resulting from a truck/train
 9 collision occurring on June 24, 2011 (Pursuant to the ORDER ALLOWING INFORMAL
 10 PROOFS OF CLAIM [Docket No. 229] Proof of Claim 37 has been deemed as timely filed by
 11 this claimant.) By reason of the Debtor's denial of the claim for damages in the State Court
 12 Action, the Class 2H claim is deemed disputed by the Debtor.

13 **10. CLASS 2I: PERSONAL INJURY CLAIM [BLAINE DIANE POTTER]:**
 14 This Class consists of the pending State Court claim for damages resulting from a truck/train
 15 collision occurring on June 24, 2011 (POC 27 - \$5,000,000.00 filed on June 29, 2015). By
 16 reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2I
 17 claim is deemed disputed by the Debtor.

18 **11. CLASS 2J: PERSONAL INJURY CLAIM [ESTATE OF BARBARA**
 19 **BELL]:** This Class consists of the pending State Court claim for damages resulting from a
 20 truck/train collision occurring on June 24, 2011 (POC 24 - \$5,000,000.00 filed on June 24,
 21 2015). By reason of the Debtor's denial of the claim for damages in the State Court Action, the
 22 Class 2J claim is deemed disputed by the Debtor.

23 **12. CLASS 2K: PERSONAL INJURY CLAIM [ESTATE OF FRANCES**
 24 **KNOX]:** This Class consists of the pending State Court claim for damages resulting from a
 25 truck/train collision occurring on June 24, 2011 (POC 23 - \$5,000,000.00 filed on June 24,
 26 2015). By reason of the Debtor's denial of the claim for damages in the State Court Action, the
 27 Class 2K claim is deemed disputed by the Debtor.

28 //

1 **13. CLASS 2L: PERSONAL INJURY CLAIM [ESTATE OF KARLY KNOX]:**

2 This Class consists of the pending State Court claim for damages resulting from a truck/train
3 collision occurring on June 24, 2011 (POC 22 - \$5,000,000.00 filed on June 24, 2015). By
4 reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2L
5 claim is deemed disputed by the Debtor.

6 **14. CLASS 2M: PERSONAL INJURY CLAIM [ESTATE OF LAURETTE**

7 **AXELLE LEE]:** This Class consists of the pending State Court claim for damages resulting
8 from a truck/train collision occurring on June 24, 2011 (POC 13 - \$5,000,001.00 filed on June
9 19, 2015). By reason of the Debtor's denial of the claim for damages in the State Court Action,
10 the Class 2M claim is deemed disputed by the Debtor.

11 **15. CLASS 2N: PERSONAL INJURY CLAIM [ESTEBAN SCHUYMACHER-**

12 **PORTILLO]:** This Class consists of the pending State Court claim for damages resulting from
13 a truck/train collision occurring on June 24, 2011 (POC 9 - \$5,000,000.00 filed on June 19,
14 2015). By reason of the Debtor's denial of the claim for damages in the State Court Action, the
15 Class 2N claim is deemed disputed by the Debtor.

16 **16. CLASS 2O: PERSONAL INJURY CLAIM [EVELYN JOHNSON]:** This

17 Class consists of the pending State Court claim for damages resulting from a truck/train
18 collision occurring on June 24, 2011 (POC 30 - \$1,000,000.00 filed on June 30, 2015). By
19 reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2O
20 claim is deemed disputed by the Debtor.

21 **17. CLASS 2P: PERSONAL INJURY CLAIM [GLENN A LEE]:** This Class

22 consists of the pending State Court claim for damages resulting from a truck/train collision
23 occurring on June 24, 2011 (POC 12 - \$5,000,000.00 filed on June 19, 2015). By reason of the
24 Debtor's denial of the claim for damages in the State Court Action, the Class 2P claim is
25 deemed disputed by the Debtor.

26 **18. CLASS 2Q: PERSONAL INJURY CLAIM [HYUNG WON PARK]:** This

27 Class consists of the pending State Court claim for damages resulting from a truck/train
28 collision occurring on June 24, 2011 (Pursuant to the ORDER ALLOWING INFORMAL

PROOFS OF CLAIM [Docket No. 229] Proof of Claim 39 has been deemed as timely filed by this claimant.)). By reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2Q claim is deemed disputed by the Debtor.

19. CLASS 2R: PERSONAL INJURY CLAIM [JEANIE SCHUMACHER]:

This Class consists of the pending State Court claim for damages resulting from a truck/train collision occurring on June 24, 2011 (POC 8 - \$5,000,000.00 filed on June 19, 2015). By reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2R claim is deemed disputed by the Debtor.

20. CLASS 2S: PERSONAL INJURY CLAIM [JOHN SPELTA]: This Class

consists of the pending State Court claim for damages resulting from a truck/train collision occurring on June 24, (Pursuant to the ORDER GRANTING MOTION TO FIND EXCUSABLE NEGLIGENCE [Docket No. 219] Proof of Claim 42 has been deemed as timely filed by this claimant.) By reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2S claim is deemed disputed by the Debtor.

21. CLASS 2T: PERSONAL INJURY CLAIM [KATHERINE BELL]: This

Class consists of the pending State Court claim for damages resulting from a truck/train collision occurring on June 24, 2011 (POC 14 - 5,000,000.00 filed on June 24, 2015). By reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2T claim is deemed disputed by the Debtor.

22. CLASS 2U: PERSONAL INJURY CLAIM [KATHRINE SPELTA]: This

Class consists of the pending State Court claim for damages resulting from a truck/train collision occurring on June 24, 2011 (Pursuant to the ORDER GRANTING MOTION TO FIND EXCUSABLE NEGLIGENCE [Docket No. 219] Proof of Claim 43 has been deemed as timely filed by this claimant.)). By reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2U claim is deemed disputed by the Debtor.

23. CLASS 2V: PERSONAL INJURY CLAIM [KRISTA KNOX, AS HEIR OF FRANCES KNOX]: This Class consists of the pending State Court claim for damages resulting from a truck/train collision occurring on June 24, 2011 (POC 15 - \$5,000,000.00 filed

on June 24, 2015). By reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2V claim is deemed disputed by the Debtor.

24. **CLASS 2W: PERSONAL INJURY CLAIM [KYUNG RAN YOU]:** This Class consists of the pending State Court claim for damages resulting from a truck/train collision occurring on June 24, 2011 Pursuant to the ORDER ALLOWING INFORMAL PROOFS OF CLAIM [Docket No. 229] Proof of Claim 38 has been deemed as timely filed by this claimant.)). By reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2W claim is deemed disputed by the Debtor.

25. **CLASS 2X: PERSONAL INJURY CLAIM [LANA DICKERSON]:** This Class consists of the pending State Court claim for damages resulting from a truck/train collision occurring on June 24, 2011 (POC 28 - \$5,000,000.00 filed June 30, 2015). By reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2X claim is deemed disputed by the Debtor.

26. **CLASS 2Y: PERSONAL INJURY CLAIM [LISA SWEJKOSKI]:** This Class consists of the pending State Court claim for damages resulting from a truck/train collision occurring on June 24, 2011 Pursuant to the Order Granting Motion to Find Excusable Neglect [Docket No. 219], Proof of Claim 40 has been deemed as timely filed by this claimant) By reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2Y claim is deemed disputed by the Debtor.

27. **CLASS 2Z: PERSONAL INJURY CLAIM [LOGAN LONGORIA]:** This Class consists of the pending State Court claim for damages resulting from a truck/train collision occurring on June 24, 2011(Pursuant to the ORDER APPROVING STIPULATION FOR ALLOWANCE OF PROOFS OF CLAIM AS TIMELY FILED [Docket No. 239] Proof of Claim 46 has been deemed as timely filed by this claimant.) By reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2Z claim is deemed disputed by the Debtor.

28. **CLASS 2AA: PERSONAL INJURY CLAIM [LOXIE SANDERS]:** This Class consists of the pending State Court claim for damages resulting from a truck/train

1 collision occurring on June 24, 2011 (POC 33 - \$1,000,000.00 filed on July 1, 2015). By reason
 2 of the Debtor's denial of the claim for damages in the State Court Action, the Class 2AA claim
 3 is deemed disputed by the Debtor.

4 **29. CLASS 2BB: PERSONAL INJURY CLAIM [MARCUS LONGORIA]:**

5 This Class consists of the pending State Court claim for damages resulting from a truck/train
 6 collision occurring on June 24, 2011 (Pursuant to the ORDER APPROVING STIPULATION
 7 FOR ALLOWANCE OF PROOFS OF CLAIM AS TIMELY FILED [Docket No. 239] Proof of
 8 Claim 47 has been deemed as timely filed by this claimant.) By reason of the Debtor's denial of
 9 the claim for damages in the State Court Action, the Class 2BB claim is deemed disputed by the
 10 Debtor.

11 **30. CLASS 2CC: PERSONAL INJURY CLAIM [MARISSA KNOX]:** This

12 Class consists of the pending State Court claim for damages resulting from a truck/train
 13 collision occurring on June 24, 2011 (POC 25 - \$5,000,000.00 filed on June 24, 2015). By
 14 reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2CC
 15 claim is deemed disputed by the Debtor.

16 **31. CLASS 2DD: PERSONAL INJURY CLAIM [MARJORIE GOOLSBY]:**

17 This Class consists of the pending State Court claim for damages resulting from a truck/train
 18 collision occurring on June 24, 2011 (POC 30 - \$6,000,000.00 filed on June 30, 2015). By
 19 reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2DD
 20 claim is deemed disputed by the Debtor.

21 **32. CLASS 2EE: PERSONAL INJURY CLAIM [MICHELLE KNOX AS**
 22 **HEIR OF FRANCES KNOX]:** This Class consists of the pending State Court claim for
 23 damages resulting from a truck/train collision occurring on June 24, 2011 (POC 17 -
 24 \$5,000,000.00 filed on June 24, 2015). By reason of the Debtor's denial of the claim for
 25 damages in the State Court Action, the Class 2EE claim is deemed disputed by the Debtor.

26 **33. CLASS 2FF: PERSONAL INJURY CLAIM [MONICA MORENO]:** This

27 Class consists of the pending State Court claim for damages resulting from a truck/train
 28 collision occurring on June 24, 2011 (POC 32 - \$1,000,000.00 filed on July 1, 2015). By reason

1 of the Debtor's denial of the claim for damages in the State Court Action, the Class 2FF claim is
2 deemed disputed by the Debtor.

3 **34. CLASS 2GG: PERSONAL INJURY CLAIM [PERRY JARAMILLO]:** This
4 Class consists of the pending State Court claim for damages resulting from a truck/train
5 collision occurring on June 24, 2011 Pursuant to the ORDER APPROVING STIPULATION
6 FOR ALLOWANCE OF PROOFS OF CLAIM AS TIMELY FILED [Docket No. 239] Proof of
7 Claim 44 has been deemed as timely filed by this claimant.). By reason of the Debtor's denial
8 of the claim for damages in the State Court Action, the Class 2GG claim is deemed disputed by
9 the Debtor.

10 **35. CLASS 2HH: PERSONAL INJURY CLAIM [RICHARD**
11 **D'ALLESANDRO]:** This Class consists of the pending State Court claim for damages
12 resulting from a truck/train collision occurring on June 24, 2011 (POC 7- \$5,000,001.00 filed on
13 June 19, 2015). By reason of the Debtor's denial of the claim for damages in the State Court
14 Action, the Class 2HH claim is deemed disputed by the Debtor.

15 **36. CLASS 2II: PERSONAL INJURY CLAIM [RONALD**
16 **WERCKENTHIEN]:** This Class consists of the pending State Court claim for damages
17 resulting from a truck/train collision occurring on June 24, 2011 (POC 29 - \$1,000,000.00 filed
18 June 30, 2015). By reason of the Debtor's denial of the claim for damages in the State Court
19 Action, the Class 2II claim is deemed disputed by the Debtor.

20 **37. CLASS 2JJ: PERSONAL INJURY CLAIM [SHANNON LEE]:** This Class
21 consists of the pending State Court claim for damages resulting from a truck/train collision
22 occurring on June 24, 2011 (POC 11 - \$5,000,001.00 filed on June 19, 2015). By reason of the
23 Debtor's denial of the claim for damages in the State Court Action, the Class 2JJ claim is
24 deemed disputed by the Debtor.

25 **38. CLASS 2KK: PERSONAL INJURY CLAIM [STEPHEN SHIREY]:** This
26 Class consists of the pending State Court claim for damages resulting from a truck/train
27 collision occurring on June 24, 2011(POC 4 - \$5,000,000.00 filed January 23, 2015). By reason
28

of the Debtor's denial of the claim for damages in the State Court Action, the Class 2KK claim is deemed disputed by the Debtor.

39. **CLASS 2LL: PERSONAL INJURY CLAIM [WILLIAM KNOX AS HEIR OF FRANCES KNOX]**: This Class consists of the pending State Court claim for damages resulting from a truck/train collision occurring on June 24, 2011 (POC 20 - \$5,000,000.00 filed on June 24, 2015). By reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2LL claim is deemed disputed by the Debtor.

40. **CLASS 2MM: PERSONAL INJURY CLAIM [WILLIAM KNOX, GAL OF KATELYN KNOX]**: This Class consists of the pending State Court claim for damages resulting from a truck/train collision occurring on June 24, 2011 (POC 19 - \$5,000,000.00 filed on June 24, 2015). By reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2MM claim is deemed disputed by the Debtor.

41. **CLASS 2NN: PERSONAL INJURY CLAIM [WILLIAM KNOX, GAL OF KYLA KNOX]**: This Class consists of the pending State Court claim for damages resulting from a truck/train collision occurring on June 24, 2011 (POC 16 - \$5,000,000.00 filed on June 24, 2015). By reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2NN claim is deemed disputed by the Debtor.

42. **CLASS 2OO: PERSONAL INJURY CLAIM [WILLIAM KNOX, GAL OF NOAH KNOX]**: This Class consists of the pending State Court claim for damages resulting from a truck/train collision occurring on June 24, 2011 (POC 18 - \$5,000,000.00 filed on June 24, 2015). By reason of the Debtor's denial of the claim for damages in the State Court Action, the Class 2OO claim is deemed disputed by the Debtor.

43. **CLASS 3: NON-PERSONAL INJURY CLAIMS [ALLOWED GENERAL UNSECURED CREDITORS]**: This Class consists of all allowed general unsecured claims against the Debtor, and other disputed claims to the extent disputed claims may be proven and allowed by the Court, that are not personal injury claims arising out of the truck/train collision occurring on June 24, 2011. The Class 3 General Unsecured Claims total approximately \$929,735.05, of which only \$15,083.25 are considered allowed general unsecured claims by the

Committee, and are detailed as follows:

<u>CLAIMANT</u>	<u>Scheduled Amount</u>	<u>Proof of Claim Amount</u>	<u>Allowed Amount</u>
Steven T. Jaffe, Esq.	\$0.00	\$0.00	\$0.00
Wells Fargo Bank Equipment Finance (Contingent)	\$663,322.00	\$666,127.34	unknown
Heritage Bank of Nevada (Contingent)	\$0.00	\$0.00	\$0.00
Kirklin Thompson & Pope, LLC	\$220,080.00	\$248,524.46	\$248,524.46
Nevada Dept. of Motor Vehicles	\$0.00	\$15,083.25	\$15,083.25
TOTAL CLAIMS	\$883,402.00	\$929,735.05	\$263,607.71

44. CLASS 4: OWNERSHIP [EQUITY INTERESTS OF DEBTOR]: This Class consists of the shareholders' equity interests in JOHN DAVIS TRUCKING COMPANY, INC., and represents the 50% shareholder interest owned by John W. Davis and the 50% shareholder interest owned by Shane Davis.

V. TREATMENT OF CLASSES

A. CLASS 1: JUDGMENT CLAIMS [AMTRAK AND UPRR]:

The Class 1 judgment claims of Amtrak and UPRR, as may be amended and allowed, shall be paid a pro-rata share with any and all allowed Classes 2A through 200 claims and Class 3 claims, of the monies received from the liquidation of the assets of the Debtor by the Liquidating Trust, as more fully described in Article VIII herein, although Class 3 claimants shall not share in any insurance proceeds received from Argonaut/Hallmark. With respect to Class 1, effective August 25, 2015, the automatic stay provisions of Section 362(a) of the Bankruptcy Code, were modified to allow the claimants to pursue their post-trial motions/appeals, or engage in settlement negotiations in order to determine the liquidated value of each claim, except as otherwise agreed by the Liquidating Trust and the claimants. Argonaut Insurance is expected to provide any legal defenses for the Estate in defending these claims, with all defense costs so incurred to be paid by Argonaut Insurance, consistent with the terms and conditions of the parties' insurance policy. However, if Hallmark and/or other insurers liable for a share of defense costs, elect to participate in payment of attorney's fees and costs

1 incurred in defending these claims, it shall be without prejudice to Estate claims that
 2 Argonaut/Hallmark and/or other insurers should have covered and reimbursed fees and costs
 3 paid to Kirklin Thompson & Pope by the Debtor. Accordingly, the Class 1 judgment claims of
 4 Amtrak and UPRR are impaired under the Plan.

5 **B. CLASSES 2A through 200: PERSONAL INJURY CLAIMS [Allowed**
 6 **General Unsecured Creditors]:**

7 The amount of each of the Class 2A through Class 200 alleged personal injury claims
 8 has not yet been determined and allowed, either by judicial adjudication or by settlement
 9 agreement. With respect to Classes 2A through 200, effective as of August 25, 2015, the
 10 automatic stay provisions of Section 362(a) of the Bankruptcy Code, were modified to allow the
 11 claimants to pursue their remedies in the State Court Action/Federal Court Action or engage in
 12 settlement negotiations in order to determine the liquidated value of each individual claim for
 13 personal injury damages, except as otherwise agreed by the Liquidating Trust and the claimants.
 14 Argonaut Insurance is expected to provide any legal defenses for the Estate in defending these
 15 claims, with all defense costs so incurred to be paid by Argonaut Insurance, consistent with the
 16 terms and conditions of the parties' insurance policy. However, if Hallmark and/or other
 17 insurers liable for a share of defense costs, elect to participate in payment of attorney's fees and
 18 costs incurred in defending these claims, it shall be without prejudice to Estate claims that
 19 Argonaut/Hallmark and/or other insurers should have covered and reimbursed fees and costs
 20 paid to Kirklin Thompson & Pope by the Debtor. Upon final determination and allowance of
 21 the amount of each individual claim(s), all Class 2A through Class 200 claimants shall be paid
 22 a pro-rata share with any allowed Class 1 and allowed Class 3 claimants, of the monies received
 23 from the liquidation of the assets of the Debtor by the Liquidating Trust, as more fully described
 24 in Article VIII herein, although Class 3 claimants shall not share in any insurance proceeds
 25 received from Argonaut/Hallmark. Accordingly, the Class 2A through Class 200 personal
 26 injury claims are each impaired under the Plan.

27 **C. CLASS 3: NON-PERSONAL INJURY UNSECURED CLAIMS -**
 28 **(ALLOWED GENERAL UNSECURED CREDITORS):**

1 The Class 3 Allowed General Unsecured Claims, along with Class 1 and Classes 2A
 2 through Class 200 claims, as may be allowed, , shall be paid a pro-rata share of the monies
 3 received from the liquidation of the Debtor's assets by the Liquidating Trust, as more fully
 4 described in Article VIII herein, although Class 3 claimants shall not share in any insurance
 5 proceeds received from Argonaut/Hallmark. Accordingly, the Class 3 Non-Personal Injury
 6 General Unsecured Claims are each impaired under the Plan.

7 D. **CLASS 4: OWNERSHIP (EQUITY INTERESTS OF DEBTOR):**

8 Upon Plan Confirmation and formation of the Liquidating Trust, as more fully described
 9 in Article VIII hereinafter, JOHN DAVIS TRUCKING COMPANY, INC., shall cease all
 10 business operations and all assets shall be turned over to the proposed Liquidating Trust. On the
 11 Effective Date of the Plan, all Class 4 Equity Interests in the Debtor shall be cancelled. Holders
 12 of Class 4 Equity Interests shall not receive or retain any property on account of their Equity
 13 Interests under this Plan, unless and until all allowed creditors' claims are paid in full pursuant
 14 to this Plan, with interest thereon at the Federal rate.. Accordingly, holders of Class 4 Equity
 15 Interests are impaired under the Plan.

16 **VI. TREATMENT OF EXECUTORY CONTRACTS, NON-EXECUTORY**
 17 **CONTRACTS, UNEXPIRED LEASES AND DISPUTED CLAIMS**

18 **A. EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

19 All executory contracts and unexpired leases not specifically assumed or rejected as of
 20 the Confirmation Date or as to which a motion to assume or reject shall not be pending on the
 21 Confirmation Date, shall be deemed rejected by the Debtor. The Committee intends to reject, if
 22 not already rejected by operation of law, the following: Lease of Equipment yard in Battle
 23 Mountain, Nevada with SDJD, LLC; and Lease of aggregate pit in Battle Mountain, Nevada
 24 from 26 Ranch, LLC.

25 **B. DISPUTED CLAIMS**

26 Through the proposed Liquidating Trust, the Trustee will only make distributions
 27 according to the Plan and when claims become Allowed Claims. There are currently claims
 28 pending against the Debtor, either filed or scheduled, which are or will become Disputed

1 Claims. As to some Disputed Claims, the Committee disputes only the classification of the
 2 claims asserted by the holder. With respect to other Disputed Claims, the Committee accepts
 3 the classification asserted by the holder but disputes the amount of the claim alleged by such
 4 holder. In some cases, the Committee disputes both the asserted classification and the alleged
 5 amount. In addition, the Committee and other parties in interest may object to certain other
 6 claims. No distribution will be made with respect to any such Disputed Claims unless and until
 7 they become allowed claims. The Committee may dispute the following claims at this time: The
 8 contingent claim of Wells Fargo Bank against Debtor as guarantor of an obligation incurred by
 9 3D Concrete in the amount of \$666,127.34; the contingent claim of Heritage Bank of Nevada
 10 against Debtor as guarantor of an obligation incurred by Reno-Sparks Investment Properties,
 11 LLC, in an amount unknown at this time; any attorney's fees claimed as owed by Steven T.
 12 Jaffe, Esq.; and certain Class 3 claimants noted in Article V, paragraph B herein.

13 **VII. STATEMENT OF IMPAIRMENT AND PLAN VOTING**

14 All Classes are impaired under the Plan, specifically Classes 1, 2A through 200, 3 and
 15 4. For purposes of voting on the Plan, Class 1 creditors shall be entitled to use their Judgment
 16 claim amounts, as may be amended; the claims of Classes 2A through 200 each shall be entitled
 17 to use their filed Proof of Claim amount, and the Class 3 (with the exceptions noted in Article
 18 V, paragraph B herein) claims shall be entitled to use the allowed amount specified by the
 19 Committee herein, unless otherwise ordered by the Court upon a motion filed to allow the
 20 claim(s) for a different amount for voting purposes.

21 **VIII. MEANS FOR EXECUTION OF THE PLAN**

22 **A. In General —.**

23 The Plan cannot be confirmed unless the Court finds that it is “feasible” which
 24 means that the Committee has timely submitted evidence establishing the Liquidating Trust will
 25 have sufficient funds available to satisfy all expenses, including scheduled creditor payments as
 26 discussed above to the extent assets are available, with no monies or property going to the Class
 27 4 Equity Interest holders unless all allowed creditors' claims in Class 1, Classes 2A through
 28 200 and Class 3 (with the exceptions noted in Article V, paragraph B herein) are paid in full

1 under the Plan, including interest at the Federal rate, until paid. The Debtor and the Committee
2 have tentatively agreed to the method to execute and implement the Plan as specified
3 hereinafter. The Plan will be executed and implemented through distributions according to the
4 priority scheme under § 726 and as set forth in Article V. Treatment of Classes.

5 B. Debtor's Continued Operation of Business and Involvement in Liquidation of
6 Inventory.

7 1. The Debtor's principals, John Davis and Shane Davis, shall formulate a business
8 plan commencing February 1, 2016, for the timely and expeditious liquidation of the Debtor's
9 trucks, trailers, parts and inventory. The business plan will include a proposed disposition of
10 these personal property assets and shall include the timing of sales and the "packaging" of the
11 Debtor's trucks, trailers, parts and inventory for public auction sales. The business plan for
12 liquidation must be approved by the Committee (or the Liquidating Trustee, as applicable), and
13 the Court, after notice and hearing, and for those items to be submitted for sale at public
14 auction, the auctioneer, Ritchie Bros. Proceeds from the Court approved sale of assets shall be
15 deposited in the Debtor's segregated account, or if applicable, the bank account maintained by
16 the Liquidating Trust.

17 2. The Debtor will continue to operate its business through April 2016, on the
18 condition that the Debtor will operate at a profit, and sales proceeds from the sale of assets are
19 not to be included in determining the Debtor's profitability. John Davis and Shane Davis may
20 be paid the normal salaries they have been receiving since the Petition Date, however the
21 Committee does not admit that their salaries have been reasonable. Additionally no employee
22 fringe benefits except health benefits may be paid to John Davis and/or Shane Davis, and no
23 other Davis family member or Davis related entity may receive any compensation between
24 January 1, 2016 and the cessation of business operations. In addition to the post-confirmation
25 Quarterly Operating Reports required by the United State Trustee, Debtor shall provide monthly
26 post-confirmation operating reports to the Committee, as dictated by asset sales and termination
27 of business operations. If during this time period the Debtor is not profitable for two
28 consecutive months, then the Debtor shall cease all business operations. Upon cessation of

1 business operations, whether on April 30, 2016 or before, the Debtor is authorized to pay all
 2 outstanding ordinary and reasonable liabilities incurred post-petition from operating income
 3 (Debtor may not use monies received from any Court approved sales, unless Court approval is
 4 first obtained). Further, upon cessation of business operations, all remaining inventory, trucks,
 5 trailers and parts shall come under the control and ownership of the Liquidating Trust, which
 6 may, subject to income tax considerations, transfer the titles of all remaining assets to the
 7 Liquidating Trust or may otherwise assume control of those assets. All other assets of the
 8 Debtor shall revert in the Liquidating Trust upon Plan Confirmation.

9 Any sale of assets must be approved by the Court. If funds from asset sales on deposit
 10 in the segregated account are needed to pay administrative expenses (including professionals'
 11 fees or other expenses), then Court approval is first required. s

12 C. Available Assets to be Transferred and Assigned to the Liquidating Trust.

13 Available Assets shall include, will be available for payment of Class 1, Classes 2A
 14 through 200, and Class 3(with the exceptions noted in Article V, paragraph C herein) allowed
 15 claims. Available Assets shall be transferred and assigned to the Liquidating Trust on or before
 16 the Effective Date of the Plan and are described as follows:

- 17 1. All vehicles, trailers and equipment in the possession of the Debtor as of the
 18 Petition Date, less those vehicles, trailers and equipment approved for sale
 19 pursuant to the ORDER AUTHORIZING SALE OF PERSONAL PROPERTY
 20 AND EMPLOYING RITCHIE BROS AUCTIONEERS; PAYMENT OF
 21 COMMISSION [Docket No. 87]. The MOTION FOR ORDER
 22 AUTHORIZING SECOND SALE OF PERSONAL PROPERTY AND
 23 EMPLOYING RITCHIE BROS. AUCTIONEERS; PAYMENT OF
 24 COMMISSION [Docket No. 116] which was approved by the Court on May 29,
 25 2015, and any subsequent Order approving the sale of personal property entered
 26 by the Court. The proceeds from said sales maintained in the segregated account,
 27 shall be turned over to the Liquidating Trust.
- 28 2. All monies in any bank account maintained by the Debtor.

- 1 3. Insurance proceeds under a policy of liability insurance in the amount of
2 \$1,000,000.00 purchased from Argonaut Insurance. These insurance proceeds
3 are property of the Estate, and they will be distributed by the Liquidating Trust
4 pro rata to allowed Class 1 and Class 2 claims, but not distributed to Class 3
5 claimants.
- 6 4. Excess insurance proceeds that may be available under a policy of liability
7 insurance estimated in the amount of \$3,000,000.00, purchased from Hallmark
8 Insurance. These insurance proceeds are property of the Estate, and they will be
9 distributed by the Liquidating Trust pro rata to allowed Class 1 and Class 2
10 claims, but not distributed to Class 3 claimants. The availability of the
11 \$3,000,000.00 excess liability insurance proceeds is disputed by Hallmark
12 Insurance. Specifically, Hallmark Insurance has filed a motion requesting relief
13 from the §362(a) automatic stay, in order to file a declaratory relief or
14 reformation action in Federal Court to determine the availability of excess
15 insurance policy proceeds to Class 1 and Class 2A through Class 200 creditors,
16 which motion was denied. .
- 17 5. Potential cause of action against Kirklin Thompson & Pope (“Kirklin Law
18 Firm”)for recapture of allegedly avoidable transfers in the estimated amount of
19 \$606,604.17 and \$134,588.50.
- 20 6. Potential breach of contract/other causes of action against the Kirklin Law Firm
21 and/or Argonaut Insurance and/or Hallmark Insurance and other insurers arising
22 from the Debtor’s payment of pre-petition attorney’s fees and costs to the
23 Kirklin Firm that are believed to exceed \$2,000,000.00, for which Argonaut
24 Insurance, Hallmark Insurance or other insurers may be liable.
- 25 7. Potential breach of contract/insurance malpractice/fraud claim against Hanica
26 Insurance Company, Transwestern and/or Susan Davis for negligence and/or
27 improper procurement of excess insurance coverage/policy with Hallmark
28 Insurance; and/or potential breaches of fiduciary duty.

- 1 8. Potential causes of action against Debtor's insiders including, but not limited to,
2 actions to recapture excessive compensation/bonus paid, both pre-petition and
3 post-petition, to insider employees and owners, primarily John Davis and Shane
4 Davis, who were paid in excess of \$2,000,000.00 from September 29, 2010 to
5 the present, and breach of fiduciary duty.
- 6 9. All accounts receivable held by the Debtor.
- 7 10. The unused portion of any funds on deposit with the Nevada Department of
8 Taxation, Goicochea, Di Grazia, Coyle & Stanton (\$69,500.00), and the cash
9 bond for 26 Ranch identified on Schedule B of the Debtor's Schedules of Assets
10 and Liabilities, and any other cash bonds or deposits held for the Estate.
- 11 11. Potential breach of contract/legal malpractice claims against the law firm of
12 Goicochea, Di Grazia Coyle & Stanton and its attorneys.
- 13 12. Potential breach of contract/legal malpractice claims against the law firm of Hall
14 Jaffe & Clayton and its attorneys.
- 15 13. Potential breach of contract/legal malpractice claim against the Kirklin Firm and
16 its attorneys.
- 17 14. Potential breach of contract/legal malpractice/other claims against the law firm
18 of Thorndal, Armstrong, Delk, Balkenbush & Eisinger (Debtor's pre-petition
19 insurance coverage counsel in connection with, among other things, Hallmark
20 Insurance).
- 21 15. Potential action for substantive consolidation with non-debtor Quality
22 Transportation, Inc., with the Debtor, and any assets of Quality Transportation,
23 Inc. that inure to the benefit of the substantively consolidated Debtors that would
24 be administered by the Liquidating Trust.
- 25 16. Potential causes of action against 3D Concrete, SDJD Properties, LLC, Reno-
26 Sparks Investment Properties, LLC, and/or other entities owned in whole or in
27 part by John W. Davis and Shane Davis.

1 17. Potential counterclaims held by the Estate against UPPR/ Amtrak in the Federal
2 Court Action and the State Court Action, including possible
3 contribution/indemnity arising out of the Personal Injury Claims pending against
4 the Debtor for damages in the State Court Action and the Federal Court Action.

5 No person or entity may rely on the absence of a specific reference in the Plan or the Disclosure
6 Statement to any such cause of action against them as any indication that the Estate or the
7 Liquidating Trust will not pursue any and all available causes of action against them. No
8 preclusion doctrine, including the doctrine of *res judicata*, collateral estoppel, issue preclusion,
9 claim preclusion (judicial, equitable, or otherwise), or laches, shall apply to such causes of
10 action upon, after, or as a consequence of the Confirmation or consummation of the Plan.

11 D. Execution of Documents.

12 The Liquidating Trustee is authorized and directed to execute and deliver all documents
13 and to take and cause to be taken all actions necessary or appropriate to execute and implement
14 the provisions of this Committee's Plan.

15 E. Liquidation Plan Amendments.

16 This Committee's Plan may be altered, amended, or modified by the Committee and/or
17 the Liquidating Trustee before or after the Confirmation Date, as provided in §1127 of the
18 Bankruptcy Code.

19 F. Liquidating Trustee.

20 The Liquidating Trustee shall be elected by a majority vote of the members of the
21 Official Committee of Unsecured Creditors prior to the Effective Date of the Plan. The
22 Liquidating Trustee shall have the sole and exclusive right to make the distribution of funds
23 required by the Plan of Liquidation, as amended.. The Liquidating Trustee may hold or invest
24 the funds in one or more accounts, provided that all investments shall be made in accordance
25 with § 345. As of the Effective Date, the Liquidating Trustee shall be the authorized signatory
26 on behalf of the Estate and on behalf of the Liquidating Trust, as the successor in interest to
27 assets of and claims held by the Estate. Except as otherwise set forth herein pursuant to §
28 1123(b)(3), the Liquidating Trustee shall (a) have the ability to settle any claim or interest

1 belonging to the Debtor or the Estate subject to Rule 9019 approval,, and (b) the Liquidating
 2 Trust, as the representative of the Estate and successor in interest to all claims, shall be
 3 substituted as the real party in interest entitled to pursue and/or prosecute any claim or interest
 4 that is transferred to the Liquidating Trust.

5 G. Interim and Final Report.

6 The Liquidating Trustee shall file interim reports every four (4) months after the
 7 Confirmation Date. After final distribution has been made of all assets, the Liquidating Trustee
 8 shall file a report and the Liquidating Trustee shall cause final decrees to be issued.

9 H. Distribution

10 All cash proceeds (except insurance policy proceeds, as indicated above) shall be
 11 distributed to the allowed creditors in Class 1, Classes 2A through Class 2OO and Class 3 (with
 12 the exceptions noted in Article V, paragraph C herein), pro-rata after all individual claim
 13 amounts have been determined, except any amounts necessary to pay Disputed Claims against
 14 the Estate, in the event they are allowed, which shall be held as a reserve and paid as such
 15 claims are determined by agreement between the parties or as are judicially determined.

16 I. Taxes

17 Unless otherwise provided for in the Plan, all taxes are paid current and there are no tax
 18 liens on real or personal property owned by the Estate.

19 **IX. MISCELLANEOUS PROVISIONS**

20 A. The Liquidating Trustee.

21 The Liquidating Trustee shall be responsible for making all payments contemplated in
 22 the Committee's Plan and transmitting payment to those claimants. To assist it in discharging
 23 those responsibilities, the Liquidating Trustee shall select a depository institution authorized by
 24 the Court for all funds which are to be sequestered for claims of creditors and ultimately
 25 distributed to creditors holding allowed claims.

26 B. Unclaimed Distributions.

27 Any property to be distributed pursuant to the Plan, if not claimed by the distributee
 28 within one (1) year after the payment, shall be returned to the Liquidating Trust.

1 C. Vesting of Assets.

2 Subject to the provisions of this Plan, the Assets shall be transferred to and by the
3 Liquidating Trust on or after the Effective Date. On and after the Effective Date, the
4 Liquidating Trustee may use, acquire, and dispose of property without supervision of or
5 approval by the Bankruptcy Court and free and clear of any restrictions of the Bankruptcy Code
6 or the Bankruptcy Rules, other than restrictions expressly imposed by this Plan, the
7 Confirmation Order and the Liquidating Trust. With respect to compromise or settlement of
8 any claims, the Liquidating Trustee must have Bankruptcy Court approval pursuant to Rule
9 9019 to compromise or settle same.

10 D. Preservation of Litigation Claims.

11 In accordance with Section 1123(b)(3) of the Bankruptcy Code, and except as otherwise
12 expressly provided herein and in the Liquidating Trust, all Litigation Claims shall be assigned
13 and transferred to the Liquidating Trust. The Liquidating Trust, as the representative of the
14 Estate as well as the successor-in-interest to the Debtor and the Estate, may, and shall have the
15 exclusive right to, enforce, sue on, settle, compromise, transfer or assign (or decline to do any of
16 the foregoing) any or all of the Litigation Claims, including, without limitation, any and all
17 derivative actions pending or otherwise existing against the Estate as of the Effective Date.

18 E. Settlement of Litigation Claims.

19 At any time after the Confirmation Date and before the Effective Date, notwithstanding
20 anything in this Plan to the contrary, the Liquidating Trust may settle any or all of the Litigation
21 Claims with the approval of the Bankruptcy Court pursuant to Bankruptcy Rule 9019. After the
22 Effective Date, the Liquidating Trustee must have the approval of the Bankruptcy Court
23 pursuant to FRBP 9019, to compromise and settle any Claims against the Estate, and those
24 prosecuted by the Liquidating Trust.

25 F. Statutory Committee.

26 Any Statutory Committee appointed in the Chapter 11 Case shall terminate on the
27 Effective Date and shall thereafter have no further responsibilities in respect of the Chapter 11
28 Case, except with respect to preparation of the filing of applications for compensation and

1 reimbursement of expenses. Neither the Unsecured Creditors' Committee nor any of its
 2 respective members, officers, directors, employees, representatives, professionals or agents, will
 3 have or incur any liability to any Creditor for any act or omission in connection with or arising
 4 out of the Reorganization Case, including, without limitation, prosecuting confirmation of this
 5 Plan, consummation of this Plan, or the administration of this Plan or the property to be
 6 distributed under this Plan, except for gross negligence, willful misconduct or fraud.

7 G. Severability.

8 If any provision of this Plan is determined by the Bankruptcy Court to be invalid, illegal
 9 or unenforceable or this Plan is determined to be not confirmable pursuant to Section 1129 of
 10 the Bankruptcy Code, the Bankruptcy Court, at the request of the Debtor, Committee or
 11 Liquidating Trustee, shall have the power to alter and interpret such term to make it valid or
 12 enforceable to the maximum extent practicable, consistent with the original purpose of the term
 13 or provision held to be invalid, void or unenforceable, and such term or provision shall then be
 14 applicable as altered or interpreted. Notwithstanding any such holding, alteration or
 15 interpretation, the remainder of the terms and provisions of this Plan shall remain in full force
 16 and effect and will in no way be affected, impaired or invalidated by such holding, alteration or
 17 interpretation. The Confirmation Order shall constitute a judicial determination and shall
 18 provide that each term and provision of this Plan, as it may have been altered or interpreted in
 19 accordance with the foregoing, is valid and enforceable pursuant to its terms.

20 H. Withholding and Reporting Requirements.

21 In connection with this Plan and all instruments and Interests issued in connection
 22 therewith and Distributions thereon, if any, the Liquidating Trustee shall comply with all
 23 withholding and reporting requirements imposed by any federal, state, local, or foreign taxing
 24 authority and all Distributions hereunder shall be subject to any such withholding and reporting
 25 requirements. The Liquidating Trustee shall be authorized to take any and all action that may
 26 be necessary to comply with such withholding and recording requirements. Notwithstanding
 27 any other provision of this Plan, each Holder of an Allowed Claim that has received a
 28 Distribution pursuant to this Plan shall have sole and exclusive responsibility for the satisfaction

1 or payment of any tax obligation imposed by any governmental unit, including income,
2 withholding and other tax obligation on account of such distribution.

3 **X. MODIFICATION OF COMMITTEE'S PLAN**

4 The Committee and/or the Liquidating Trustee will have the right to modify this
5 Committee's Plan in accordance with the provisions of the Bankruptcy Code and Chapter 11.
6 In this regard:

7 A. In accordance with § 1127(a) of the Bankruptcy Code and Chapter 11, § 1127(a),
8 modification(s) of this Committee's Plan may be proposed in writing by the Committee at any
9 time(s) before their confirmation, provided that the Committee's Plan, as thus modified, meets
10 the requirements of §§ 1122 and 1123 of the Bankruptcy Code and Chapter 11 §§ 1122 and
11 1123, and the Committee complies with § 1125 of the Bankruptcy Code and Chapter 11 § 1125.

12 B. In accordance with § 1127(b) of the Bankruptcy Code and Chapter 11, § 1127(b),
13 this Reorganization Plan also may be modified by the Committee at any time(s) after its
14 confirmation and before their substantial consummation, provided that the Committee's Plan, as
15 thus modified, meets the requirements of §§ 1122 and 1123 of the Bankruptcy Code and
16 Chapter 11, §§ 1122 and 1123; and provided further that the circumstances then existing justify
17 such modification(s), and the Court confirms the Committee's Plan, as thus modified, under §
18 1129 of the Bankruptcy Code.

19 C. Any holder(s) of a Claim that has accepted or rejected the Committee's Plan will
20 be deemed to have accepted or rejected, as the case may be, the Committee's Plan as modified
21 unless, within the time fixed by the Court for doing so, such holder(s) changes its previous
22 acceptance(s) or rejection(s).

23 D. Every modification of this Committee's Plan will supersede the previous
24 version(s) of the Committee's Plan as and whenever each such modification is effective as
25 provided in this Article X. When superseded, the previous version(s) of the Committee's Plan
26 will be in the nature of withdrawn or rejected settlement proposal(s), and will be null, void, and
27 unusable by the Debtors or any other party for any purpose(s) whatsoever with respect to any of
28 the contents of such version(s) of the Committee's Plan.

1 **XI. DISCHARGE AND STAY CONTINUATION**

2 Confirmation and performance of the Committee's Plan will not discharge the Debtor
3 from any and all debts dischargeable under § 1141(d) of the Bankruptcy Code, and will
4 otherwise have all effects provided in such §1141, which are not expressly inconsistent with the
5 provisions of the Committee's Plan. Pending execution of the Committee's Plan and unless: (a)
6 a Court has otherwise expressly ordered; or (b) the Committee's Plan otherwise expressly
7 provides, all creditors will continue to be stayed from proceeding against the Debtor or its
8 assets.

9 **XII. RETENTION OF JURISDICTION**

10 Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective
11 Date, the Bankruptcy Court shall retain such jurisdiction over the Chapter 11 Case, the Estate,
12 the Liquidated Debtor and the Liquidating Trust after the Effective Date as is legally
13 permissible, including jurisdiction to:

14 A. Allow, disallow, determine, liquidate, classify, estimate or establish the priority
15 or secured or unsecured status of any Claim or Equity Interests or Disputed Claim or Disputed
16 Equity Interests, including the resolution of any request for payment of any Administrative
17 Claim and the resolution of any and all objections to the allowance or priority of Claims or
18 Disputed Claims and Equity Interests or Disputed Equity Interests; Grant or deny any
19 applications for allowance of compensation or reimbursement of expenses authorized pursuant
20 to the Bankruptcy Code or this Plan for periods ending on or before the Effective Date;

21 B. Resolve any matters related to the assumption, assignment or rejection of any
22 Executory Contract or Unexpired Lease to which Debtor or the Reorganized Debtor is a party
23 and to hear, determine and, if necessary, liquidate any Claims arising therefrom or Cure
24 amounts related thereto;

25 C. Ensure that distributions to Holders of Allowed Claims are accomplished
26 pursuant to the provisions of this Plan;

27 D. Decide or resolve any motions, adversary proceedings, contested or litigated
28 matters and any other matters and grant or deny any applications or motions involving the

1 Debtor or the Reorganized Debtor that may be pending on the Effective Date or commenced
2 thereafter as provided for by this Plan;

3 E. Enter such orders as may be necessary or appropriate to implement or
4 consummate the provisions of this Plan and all contracts, instruments, releases and other
5 agreements or documents created in connection with this Plan or the Disclosure Statement or
6 the Confirmation Order, except as otherwise provided herein;

7 F. Decide or resolve any cases, controversies, suits or disputes that may arise in
8 connection with the consummation, interpretation or enforcement of any Final Order, this Plan,
9 the Confirmation Order, or any Person's obligations incurred in connection with such Final
10 Order, this Plan or the Confirmation Order;

11 G. Modify this Plan before or after the Effective Date pursuant to Section 1127 of
12 the Bankruptcy Code and Section X of this Plan or modify any contract, instrument, release, or
13 other agreement or document created in connection with this Plan, the Disclosure Statement, the
14 Confirmation Order, or the Reorganized Debtor; or remedy any defect or omission or reconcile
15 any inconsistency in any Final Order, this Plan, the Confirmation Order, or any contract,
16 instrument, release, or other agreement or document created in connection with this Plan, the
17 Disclosure Statement or the Confirmation Order, in such manner as may be necessary or
18 appropriate to consummate this Plan, to the extent authorized by the Bankruptcy Code;

19 H. Issue injunctions, enter and implement other orders or take such other actions as
20 may be necessary or appropriate to restrain interference by any person with consummation,
21 implementation or enforcement of any Final Order, this Plan or the Confirmation Order, except
22 as otherwise provided herein;

23 I. Enter and implement such orders as are necessary or appropriate if a Final Order
24 or the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;

25 J. Determine any other matters that may arise in connection with or relate to this
26 Plan, any Final Order, the Disclosure Statement, the Confirmation Order or any contract,
27 instrument, release, or other agreement or document created in connection with this Plan, the
28

1 Disclosure Statement, any Final Order or Confirmation Order, except as otherwise provided
2 herein;

3 K. Enter an order closing the Chapter 11 Case;

4 L. Except as otherwise provided in the Plan, or in the Confirmation Order, to hear
5 and decide Litigation Claims as allowed under the Code, and continue to hear and decide
6 pending Litigation Claims and any other claim or cause of action of the Liquidated Debtor and
7 the Estate as allowed under the Code; and

8 M. Decide or resolve any matter over which the Bankruptcy Court has jurisdiction
9 pursuant to Section 505 of the Bankruptcy Code.

10 **XIII. DISCLOSURE STATEMENT**

11 When the Committee solicits the requisite acceptance(s) of this Plan, it will be
12 accompanied by a Disclosure Statement that will have been approved by the Court, as amended,
13 prior to such solicitation. The Committee requests that all parties whose acceptance(s) of this
14 Plan are solicited should direct their attention to the Disclosure Statement.

15
16 **XIV. CONFIRMATION REQUEST**

17 The OFFICIAL COMMITTEE OF UNSECURED CREDITORS, as Proponent of this
18 Plan, requests confirmation of this Plan pursuant to §§ 1129(a) and/or 1129(b) of the
19 Bankruptcy Code.

20 DATED this 22nd day of December, 2015.

21 STEPHEN R. HARRIS, ESQ.
22 HARRIS LAW PRACTICE LLC

23 */s/ Stephen R. Harris*

24 _____
25 Attorneys for the Official
26 Committee of Unsecured Creditors
27
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